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ATTORNEY DOCKET NO. TOUCH AND FEEL/SCH  
Serial No.: 09/505,646

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Scott C. Harris  
Serial No.: 09/505,646  
Filed : February 16, 2000  
Title : ENHANCING TOUCH AND FEEL ON THE INTERNET

Art Unit: 2173  
Examiner: C. H. Nguyen

Board of Patent Appeals and Interferences  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450

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Applicants Brief On Appeal

Sir:

Applicant files this Appeal Brief under Rule 41.37. The sections required by Rule 41.37 follow.

The present application qualifies for small entity status under 37 C.F.R. § 1.27.

Please charge the \$170 fee for the Appeal Brief and a \$60 one month extension fee to deposit account 50-1387.

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Real Party In Interest

The application is not assigned, thereby rendering the inventor (Scott C. Harris) as the real party in interest.

Related Appeals and Interferences

There are no known related appeals and/or interference.

Status of Claims

Claims 85-90, 96-107 and 1 16-124 are rejected by the Final Official Action.

Status of Amendments

An Amendment After Final was filed, and was apparently entered.

Summary of Claimed Subject Matter

Claim 85 requires storing a plurality of images representing pages of the book with a resolution that is sufficient to allow pages to be read. See generally page 12 line 23 through page 13 line 4 which explains this. A request can be placed for a book page, see this same section which explains that, specifically page 13 lines 1-3. A limit is defined that limits the amount of reading that can be done when the request for pages exceeds the threshold, see generally page 13 lines 9-10.

Claim 96 allows images showing textual information and non-textual information to be displayed at a client. See generally page 14 lines 7-14. The images can also be displayed, see generally page 16 last line and page 17 line 3. A screen tip can also be

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displayed indicating what a reaction will be to a specified operation, see generally page 4, line 16.

Claim 98 allows images with textual information and non-textual information see page 14 line 7-14. These images can be displayed see generally page 16 line 2, through page 7 line 3. In addition, claim 98 defines a graded resolution which includes readable resolution for readable parts in a different resolution for non-readable parts. See page 14 line 22 through page 15 line 1.

Claim 100 allows images with textual information and non-textual information see page 14 line 7-14. These images can be displayed see generally page 16 line 2 through page 7 line 3. In addition, claim 100 defines displaying keys which enable moving the position of viewing, see generally page 14 line 7-20.

Claim 102 allows images with textual information and non-textual information see page 14 line 7-14. These images can be displayed see generally page 16 line 2 through page 7 line 3. In addition, claim 102 defines detecting a number of pages that have been read and limited use of the number of pages. See generally page 13 lines 8-9.

Claim 105 defines requesting a page of a book, see page 13 lines 1-4, determining if more than the specified number of pages have been requested and sending the page only if that specified number of pages does not exceed the threshold see generally page 13 lines 5-18.

Claim 116 defines limiting pages of books that can be viewed over a network, see generally page 13 lines 5-18. A book page is requested, and pages are returned based on the limiting and requesting. See generally page 13 lines 9-10.

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Claim 121 defines a computer that limits pages that can be viewed, see generally page 12 line 24 through page 13 line 18.

The Grounds of Rejection to be Reviewed on Appeal

Claims 85-107, 116-119 and 121-124 properly unpatentable over Danneels in view of Robertson. This contention is respectfully traversed, and for reasons set forth herein, it is respectfully suggested that the Patent Office has misapprehended the references and that the rejection does not meet the Patent Office's burden of providing a prima facie showing up on patentability.

The rejection cites Robertson as showing an electronic book formed of a plurality of images. Robertson certainly does return web pages that look like the pages, as shown in Robertson's Figure 3. The rejection admits, however, that Robertson does not teach determining whether the request for pages exceeds a certain threshold. The rejection cites the reference to Danneels to allegedly show a request for pages exceeding the threshold. With all due respect, however, this hypothetical combination is ineffective to render obvious the present claims.

I. It would not be obvious to one having ordinary skill in the art to combine Danneels with Robertson in the way suggested by the Official Action and rejection

Combining the references in the way suggested by the rejection, would require contradicting the express teaching of the Robertson reference. It is well-established that any combination of references that contradicts the express teaching of one of those references is an improper combination. As explained on pages 2-3 of the previous amendment, Robertson teaches providing unlimited access to documents, and

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teaches nothing about limiting any kind of access. Anything that would modify Robertson to teach limiting access would contradict Robertson's teaching that access should be supplied, not limited. Robertson teaches supplying a metaphor of a book over the Internet. Nowhere is there any teaching or suggestion of limiting that access.

The rejection attempts to justify why the hypothetical combination of Robertson in view of Danneels could be made. The rejection states that the reason for making this is "in order to enhance a user-friendly ... and enabling users to download a limited book page over the Internet". With all due respect, this reason for combination is based on the teaching of the present specification, not based on the content of the references. This rejection is classic hindsight. The reason of "enabling users to download a limited book page" is precisely what is missing from the Robertson reference. The reason given for the combination, therefore, is to enable the users to do EXACTLY what is missing from the teaching of the reference. With all due respect, this statement is based on classic hindsight. There is no reason given to make the combination, other than that, effectively, making the combination would add the missing teaching. This is classic hindsight, there is no teaching more suggestion of this system.

In any case, the response to arguments does not address the stated issue – that making the combination would be contradicting Robertson's express teaching.

2) Even if the combination were made, it would not render obvious the present claims.

The combination would obtain a Robertson type system, along with Danneels' teaching that conditions for the web page may be dependent on status conditions. See generally page 3 of the previous amendment and the full paragraph on the page.

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Nowhere is there any teaching or suggestion that the system parameters, all of which have to do with the status of the hardware, relate to "if the request for pages exceeds a certain threshold" as claimed.

The teaching in Danneels is that conditions for returning a web page may be dependent on things like hardware loading of the system. Danneels column 3 beginning at line 20 explains the kinds of status which could be used to limit the web page sets. This status includes the status of the video camera, the status of motion detecting sensor, and the processing load of the server. See generally column 3 lines 25-29. Certain files can be retained, and other files are only retrieved based on the state of the "current state variable" (column 4 line 11). The current state variable is based on the conditions 34. However, those conditions are based on the status of the camera, load on the server (column 3 line 32), current time of day (column 3 line 36) that is, parameters of the system, for example the hardware. There is no teaching that this status includes "the request for pages exceeds a certain threshold", or even anything remotely similar to this. Quite frankly, this is entirely based on hindsight. Danneels teaches only conditions that are related to time of day, load on the server, or presence of hardware. It teaches nothing about a threshold formed from a number of pages. This rejection is based on the teaching of the present specification, not on the teaching of the prior art.

In the response to arguments (page 5 of the Official Action first paragraph), the rejection discusses the load of the server in Danneels, and how the load on the server may affect the way that files are transferred. This load on the server relates to hardware loading, and teaches nothing about the specific subject matter of claim 85, specifically, "determining if the request for pages exceeds a certain threshold". The

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load on the server has nothing to do with the request for pages exceeding the threshold.

Claims such as claim 86 defying that the images are classified as to whether they count towards the threshold or not. This is not taught by the hypothetical combination of Robertson in view of Danneels. The response to arguments quotes from the section of the patent discussing "variations" (column 2 lines 23-67). This defines turning pages of a book and rotating the book. It teaches nothing about implementing a counter only when an image counts towards the threshold. The patent certainly does state that variations are possible. Simply describing that variations are POSSIBLE, however, does not disclose or suggest any specific variation.

Other claims should be allowable for similar reasons. Claim 90 specifies that a computer file expires after a certain time. Nowhere is this in any way taught or suggested by the hypothetical combination.

Claim 96 defines images with textual and non-textual parts, where the textual information is representative of contents of the book. Claim 96 also defines displaying a screen tip indicating what the reaction will be to a specified operation. The rejection alleges that Robertson's column 7 lines 41-60 teaches this. However, the cited section of Robertson simply states that the data structure is dynamic and changes as the book is changed. It also states that it includes a graphical control portion objects and status information. This general description teaches nothing about a screen tip.

Claim 96 should therefore be additionally patentable for these reasons.

Claim 98 defines a plurality of pages representing pages of a book with non-textual and textual information. Claim 98 further defines that the images use a graded resolution with readable resolution for the readable parts and a different resolution for

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the non-readable parts. Robertson's column 8 lines 3-59 simply teaches rendering the content of a book. It teaches nothing about resolution, much less the specific multiple resolutions defined by claim 98.

Claim 99 defines that the readable parts are in text format and the different parts are in image format. This is in addition to the different resolutions. Nowhere is this taught or suggested by Robertson.

Claim 100 defines book parts, and also defines displaying keys which enable moving the position of viewing of the book information. The rejections have never stated anything about the keys, but only recite that these claims are "analyzed as previously discussed.". There is no teaching or suggestion of keys which enable moving the position of viewing in Robertson or Robertson in view of Danneels.

Therefore, claim 100 should be additionally allowable.

Claim 101 defines that the keys change meaning based on their position. This is not taught or suggested by cited prior art.

Claim 102 defines receiving images with textual information and non-textual information, and detecting a number of pages that have been read and limited use of the number of pages. As described above, this is not taught or suggested by Robertson or Robertson in view of Danneels.

Claim 103 teaches an additional nuance that the type of page which is being requested is detected and the limit of use is only the specified page type. Again, this is nowhere taught or suggested by Robertson or Robertson in view of Danneels.

Claim 105 defines determining if more than a specified number of pages have been requested and sending those pages only if that number is not exceeded. As



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described above, Danneels does not teach or suggest this feature. Danneels' "conditions" are states of sensors or the like.

Claim 106 defines the types of pages, which is completely patentable as described above.

Claim 107 defines allowing the user to read beyond the specified number of pages after paying a fee. This is nowhere taught or suggested by the cited prior art.

Claim 116 specifies limiting the number of pages of the books that can be viewed, and returning images of both pages based on limiting and the requesting. As described above, this is not taught or suggested by the cited prior art.

The dependent claims should be allowable for reasons discussed above.

Claim 121 defines a computer which provides limited pages of books and that the computer "limits the number of pages that can be displayed". Again, this is completely patentable for reasons discussed above. Hence, claim 121 should be allowable along with the claims that depend therefrom.

For these reasons, the new rejection is in error, and a notice of allowance is requested.

With all due respect, this rejection treats does not use the proper standard for determining patentability. It is noted that the patent office is taking the administrative position that patent applications in class 705 should be examined using extraordinary scrutiny. The undersigned respectfully advances the notion, which will be continued on appeal and before the Federal Circuit, if necessary, that this extraordinary scrutiny on examination is ultra vires the Patent Office's authority as an institution, denies the undersigned applicant due process and equal protection, and as such, is wholly improper.

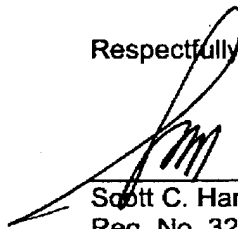
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Respectfully submitted,

Date:

10/19/05

  
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### CLAIMS APPENDIX

85. A method, comprising:
- in a server of a network, storing a plurality of images representing pages of a book, said images stored with a resolution effective to enable said book to be read;
- responsive to a request over the network, sending one of said images to a remote node; and
- determining if the request for pages exceeds a certain threshold, and sending said information only if said threshold is not exceeded.
86. A method as in claim 85, wherein said images are classified according to whether they count towards said threshold, and incrementing a counter only when an image that counts towards said threshold is requested.
87. A method as in claim 85 wherein said determining comprises storing information indicative of an amount of reading into a computer file.
88. A method as in claim 87 wherein said computer file is a cookie.
89. A method as in claim 87 wherein said computer file is persistent.
90. A method as in claim 87 wherein said computer file expires after a predetermined time.

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96. A method comprising:

receiving, at a client of a network, information about which of a specified plurality of images to be displayed, each of specified plurality of images showing textual information and at least a plurality of said images showing non-textual information, said textual information representative of contents of a book;

displaying said images responsive to said requests;

displaying a screen tip, indicating what the reaction will be to a specified operation.

97. A method as in claim 96 further comprising commanding an opening of the book to see an inside of the book.

98. A method comprising:

receiving, at a client of a network, information about which of a specified plurality of images to be displayed, each of specified plurality of images showing textual information and at least a plurality of said images showing non-textual information, said textual information representative of contents of a book;

displaying said images responsive to said requests; and

wherein each of said images use a graded resolution, which provides readable resolution for readable parts and a different resolution for non-readable parts.

99. A method as in claim 98 wherein said readable parts are in a text format and said different parts are in an image format.

100. A method comprising:

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receiving, at a client of a network, information about which of a specified plurality of images to be displayed, each of specified plurality of images showing textual information and at least a plurality of said images showing non-textual information, said textual information representative of contents of an information media;

displaying said images responsive to said requests; and  
displaying keys which enable moving a position of viewing of said information media.

101. A method as in claim 100 wherein said keys change meaning depending on their position.

102. A method comprising:  
receiving, at a client of a network, information about which of a specified plurality of images to be displayed, each of specified plurality of images showing textual information and at least a plurality of said images showing non-textual information, said textual information representative of contents of an entertainment media;  
displaying said images responsive to said requests; and  
detecting a number of pages that have been read, and limiting use to of said number of pages.

103. A method as in claim 102 further comprising detecting a type of page which is being requested, and limiting use of only a specified type page.

104. A method as in claim 91 wherein said network is the Internet.

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105. A method of reading a book over the Internet, comprising:  
requesting a page of a book on a client of the Internet;  
determining, in a server of the Internet, if more than a specified number of pages  
of said book have been requested by a specified user; and  
sending said page only if the specified number of pages does not exceed a  
threshold.

106. A method as in claim 105 wherein the specified pages are specified  
types of pages, and wherein non-specified types of pages are sent without said limit.

107. A method as in claim 105 further comprising allowing the user to  
read beyond the specified number of pages after paying a fee.

116. A method, comprising:  
limiting pages of books that can be viewed over over a publically available  
network;  
requesting information indicative of at least a page of a book over the network; and  
returning images of pages of the book based on said limiting and said requesting.

117. A method as in claim 116, wherein said returning comprises increasing a  
quality of a displayed image.

118. A method as in claim 117, wherein said increasing provides an  
image having sufficient image quality to allow reading textual information from the  
images of the pages.

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119. A method as in claim 116, wherein said limiting comprises enabling only a specified number of pages to be viewed.

121. An apparatus comprising:  
a computer, providing limited pages of books that can be viewed over over a publically available network, and including a connection to the network, and which recieves information indicative of at least one desired page of a book over the connection to the network; and returns information indicative of only limited images of pages of the book based on said information; and  
wherein said computer limits a number of pages that can be displayed.

122. An apparatus as in claim 121, wherein said information is information indicative of additional image information information.

123. An apparatus as in claim 121, wherein said information includes information indicative of larger image size.

124. An apparatus as in claim 121, wherein said information includes an image having sufficient image quality to allow reading textual information from the images of the pages.

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Evidence appendix

None

related proceedings appendix

None